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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SHAMAIN STEWART,

v.

GIMENEZ, et al.,

Plaintiff,

Case No. 2:20-cv-01855-APG-DJA

## ORDER

Defendants.

8        This action began with a *pro se* civil rights complaint filed by Shamaine Stewart. On  
9 July 1, 2021, I issued a screening order allowing some of Stewart's claims to proceed and  
10 dismissing other claims without prejudice and with leave to amend. ECF No. 8. The screening  
11 order was returned as undeliverable to the address that Stewart provided to the court. ECF No.  
12 10. On August 18, 2021, Magistrate Judge Albregts ordered Stewart to file his updated address  
13 with the court within 30 days. ECF No. 11 at 2. The 30-day period has now expired, and Stewart  
14 has not filed his updated address or otherwise responded to the order.

15        District courts have the inherent power to control their dockets, and “[i]n the exercise of  
16 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.  
17 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may  
18 dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey  
19 a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th  
20 Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d  
21 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring  
22 amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming  
23 dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of

1 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal  
 2 for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.  
 3 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for these reasons, the court must consider  
 5 several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's  
 6 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
 7 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.

8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;  
 9 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here the first two factors (the public's interest in expeditiously resolving this litigation  
 11 and my interest in managing the docket) weigh in favor of dismissal. The third factor( risk of  
 12 prejudice to the defendants) also weighs in favor of dismissal because a presumption of injury  
 13 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
 14 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth  
 15 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the  
 16 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his  
 17 failure to obey the court's order will result in dismissal satisfies the "consideration of  
 18 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*,  
 19 779 F.2d at 1424.

20 Judge Albregts' order expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff  
 21 fails to timely comply with this order, this case will be subject to dismissal without prejudice."  
 22 ECF No. 11 at 2. Thus, Stewart had adequate warning that dismissal would result from his  
 23 noncompliance with the order.

1 I therefore order that this action is dismissed without prejudice based on Stewart's failure  
2 to file his updated address in compliance with the August 18, 2021 order.

3 I further order the Clerk of Court to enter judgment accordingly and close this case.

4 DATED THIS 1st day of October, 2021.



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6 UNITED STATES DISTRICT JUDGE  
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